©
Government of Kerala
1977

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXII] Trivandrum, Saturday, 6th August 1977 / 15th Sravana 1899 [No. 453

GOVERNMENT OF KERALA

Local Administration and Social Welfare (K) Department

NOTIFICATION

G. O. Ms. No. 222/77/LA&SWD. *Dated Trivandrum, 1st August* 1977.

S. R. O. No. 709/77.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 13 of the Kerala Panchayats Act, 1960 (32 of 1960), the Government of Kerala hereby make the following amendment to the Notification No. II issued in G.O. MS. 191/76/LA&SWD dated 12th August 1976 and published as S.R.O. No. 875/76 in the Kerala Gazette Extraordinary No. 43 dated 16th August 1976.

AMENDMENT

In the schedule to the said Notification for the entry against item No. I, under column (3) the following entry shall be substituted, namely:—

"Sri Thazhathethil Chandrasekharan Nair,
Thazhathethil House, Kanichar P. O.".

By order of the Governor,

N. GOPALAKRISHNAN NAIR,
Special Secretary.

33/2910/MC

Explanatory Note

(This does not form part of the notification, but intended to indicate its general purport).

As per notification No. II of G.O. MS.191/76/LA&SWD dated 12-8-1976, an Administrative Committee was constituted for the Kanichar Panchayat. Serial No. 4 of the schedule to the Notification did not subscribe to the oath and assume charge since his name was a duplication of Serial No. 8 in the Schedule. So Government decided to appoint a member in the vacant place. This notification is intended for the above purpose.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1977

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GOVERNMENT OF KERALA

Local Administration and Social Welfare (K) Department

NOTIFICATION

G. O. Ms. No. 225/77/LA&SWD. *Dated, Trivandrum, 3rd August 1977.*

S.R.O. No. 710/77.—Whereas the Government of Kerala have in Notification G. O. MS. No, 159/76/LA&SWD., dated the 6th July, 1976 published as S. R. O. No. 734/76 in the Kerala Gazette extraordinary No. 419 dated the 12th July, 1976 appointed an Administrative Committee and a President thereof for the Kodikulam Panchayat with effect from 15-7-1976.

And whereas it has been reported to Government that Shri K. C. Ayyappan, Kuzhiyappara, Mullaringad, Vannapuram appointed as the Scheduled Caste member to the Administrative Committee of Kodikulam Panchayat may be removed from the Administrative Committee of the Kodikulam Panchayat since he is residing outside the said Panchayat area.

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 13 of the Kerala Panchayats Act, 1960 (32 of 1960) and in partial modification of Notification S.R.O. No. 734/76, the Government

of Kerala hereby appoint Shri P. P. Bhaskaran, Puthuppillil House, Padinjare. kodikulam as Scheduled Caste member of the said Administrative Committee in the place of Shri K. C. Ayyappan, Scheduled Caste member.

By order of the Governor,

N. GOPALAKRISHNAN NAIR,
Special Secretary.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

In notification S.R.O. No. 734/76 published as a Gazette Extraordinary of 12th July, 1976, an Administrative Committee and a President thereof were appointed to Kodikulam Panchayat. It has been represented to Government that Shri K. C. Ayyappan may be removed from the Administrative Committee of Kodikulam Panchayat since he is residing outside the Panchayat area. It has therefore become necessary to appoint another Scheduled Caste member to the Administrative Committee according to the sanctioned strength of the Panchayat. This notification is intended for the above purpose.

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 7143/LA4/77. *Dated, Trivandrum, 6th August 1977.*

The Kerala Casual, Temporary and Badli Workers (Wages) Bill, 1977 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33/2814/MC

Fifth Kerala Legislative Assembly

Bill No. 36

THE KERALA CASUAL, TEMPORARY AND BADLI WORKERS (WAGES) BILL, 1977

A

BILL

to provide for the fixation of the wages payable to casual, temporary aad badli workers in certain establishments and employments and for matters connected therewith.

Preamble.—WHEREAS it is expedient to provide for the fixation of the wages payable to casual, temporary and badli workers in certain establishments and employments and for matters connected therewith;

BE it enacted in the Twenty-eighth Year of the Republic of India as follows:—

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1977.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

(4) It shall apply to—

(a) every factory, plantation and motor transport undertaking;

(b) every establishment to which any of the provisions of the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960), applies;

(c) such other establishment or undertaking as the Government may, by notification in the Gazette, specify in this behalf:

Provided that no such notification shall be issued by the Government, unless not less than two months, notice of their intention so to do has been given and any objection or suggestion received in response to the notice has been considered by the Government.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "badli worker" means a worker who is appointed in the place of a permanent worker who is temporarily absent;

(b) "casual worker" means a worker whose employment is of a casual nature;

(c) "employer" means, in relation to any establishment, factory, plantation or motor transport undertaking,—

(i) belonging to or under the control of the Central or any State Government, a person or authority appointed by that Government for the supervision and control of workers, or, where no person or authority has been so appointed, the Head of the Ministry or the Department concerned;

(ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of workers, or, where no person has been so appointed, the Chief Executive Officer of the local authority;

(iii) in any other case, the person who or the authority which has the ultimate control over the affairs of the establishment, factory or plantation, and where the said affairs are entrusted to any other person, whether called Manager, Managing Director or by any other name, such person;

(d) "factory" has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948 (Central Act 63 of 1948);

(e) "Inspector" means an inspector appointed under section 6;

(f) "motor transport undertaking" has the meaning assigned to that expression in clause (g) of section 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961);

(g) "permanent worker" means a worker who is employed on a permanent basis;

(h) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act 69 of 1951);

(i) "State" means the State of Kerala;

(j) "temporary worker" means a worker who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period;

(k) "wages" has the meaning assigned to that term in clause (vi) of section 2 of the Payment of Wages Act, 1936 (Central Act 4 of 1936);

(l) "worker" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in any establishment or employment to which this Act applies and includes an out worker, to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, furnished, prepared, adopted or otherwise processed.

3. *Wages payable to casual, temporary or badli workers.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court or other authority, or in any contract or other agreement, no employer shall pay to any casual, temporary or badli worker

employed by him in an establishment, factory, plantation or motor transport undertaking, wages, whether payable in cash or in kind, at rates less than the minimum of the wages payable by him to a permanent worker for performing the same work or work of a similar nature.

4. *Power of Government to appoint authorities for hearing and deciding claims and complaints.*—(1) The Government may, by notification in the Gazette, appoint such officers not below the rank of a District Labour Officer, as they think fit, to be the authorities for the purpose of hearing and deciding—

(a) complaints with regard to the contravention of section 3;

(b) claims arising out of non-payment of wages at the rates referred to in the said section;

and may by the same or a subsequent notification define the local limits within which each such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1), it may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary, direct,—

(i) in the case of a claim arising out of non-payment of wages at the rates referred to in section 3, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid;

(ii) in the case of a complaint, that adequate steps be taken by the employer so as to ensure that there is no contravention of section 3.

(5) Every authority appointed under sub-section (1) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(6) Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to such authority as the Government may, by notification in the Gazette, specify in this behalf,

and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of section 33C of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

5. *Duty of employers to maintain registers.*—On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the casual, temporary and badli workers employed by him, as may be prescribed.

6. *Inspectors.*—(1) The Government may, by notification in the Gazette, appoint such persons as they may think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which each Inspector may make such investigation.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

(3) An Inspector may, at any place within the local limits of his jurisdiction,—

(a) enter, at any reasonable time, with such assistance as he thinks fit, any building, premises, vehicle or vessel;

(b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;

(c) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act or the rules made thereunder are being or have been complied with;

(d) examine the employer, his agent or servant or any other person found in charge of the establishment, factory, plantation or motor transport undertaking or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been, a worker in the establishment, factory, plantation or motor transport undertaking;

(e) make copies of, or take extracts from, any register or other document maintained under this Act in relation to the establishment, factory, plantation or motor transport undertaking.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

(5) Every employer shall afford the Inspector all facilities for making any entry, inspection, examination or investigation under this Act.

7. *Penalties.*—(1) If any employer contravenes the provisions of section 3, he shall be punishable with fine which may extend to five thousand rupees.

(2) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which extend to one thousand rupees.

(3) If any employer or other person obstructs any inspector in the discharge of his duties under this Act, he shall be punishable with fine which may extend to two thousand rupees.

(4) If any employer refuses or wilfully neglects to afford an Inspector reasonable facilities for making an entry, inspection, examination or investigation under this Act, he shall be punishable with fine which may extend to two thousand rupees.

(5) If any employer, being required by or under this Act so to do, refuses to give any evidence or prevents his agent, servant or any other person in charge of the establishment, factory, plantation or motor transport undertaking, as the case may be, or any worker, from giving evidence, he shall be punishable with fine which may extend to one thousand rupees.

(6) If any person makes default in complying with the provisions of any rule or order made under this Act, he shall, if no other penalty is provided for such contravention by this Act, be punishable with fine which may extend to five hundred rupees.

8. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or

other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

9. *Cognizance and trial of offences.*—(1) No court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint made with the sanction of the Government or an Officer authorised by them is this behalf.

(3) No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within three months from the date on which sanction is granted under this section.

10. *Burden of proof.*—Notwithstanding anything contained in any law for the time being in force, in any proceeding under this Act, the burden of proving that a work performed by a casual, temporary or badli worker is not the same work or work of a similar nature as that performed by a permanent worker shall be on the employer.

11. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which complaint or claim referred to in sub-section (1) of section 4 shall be made;

(b) registers and other documents which an employer is required under section 5 to maintain in relation to the casual, temporary and badli workers employed by him;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification the in rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There is a widespread practice of engaging in factories, plantations, motor transport undertakings, and other establishments, casual, temporary and badli workers and paying them only very low wages, quite disproportionate to the wages of the regular workers. Such workers are also being engaged for very long periods on such meagre wages and the workers do this work on such low wages in the hope that some day or other they would be absorbed into permanent jobs. Thus, these workers are being exploited by the managements and it is considered necessary to put a stop to this unhealthy practice. The casual, temporary and badli workers should get at least the minimum of the scale of pay or the minimum of the notified rate of wages of permanent workers who do the same type of work.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 4 of the Bill seeks to empower the Government to appoint officers not below the rank of District Labour Officer to be authorities for hearing and deciding complaints and claims. Sub-clause (6) of that clause seeks to empower the Government to specify the appellate authorities. Clause 6 seeks to empower the Government to appoint Inspectors.

2. It is proposed to authorise the officers of the Labour Department to function as the authorities or appellate authorities mentioned above in addition to their normal functions. It is also proposed to empower the Inspectors under the Minimum Wages Act to exercise the powers of the Inspector under the proposed legislation also. Therefore, no additional expenditure would be involved if the Bill is enacted and brought into operation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 1 of the Bill seeks to provide that the Act shall come into force on such date as Government may, by notification in the Gazette, appoint. Sub-clause (4)(c) of the clause seeks to empower the Government to apply the provisions of the proposed legislation to such other establishment or undertaking as the Government may, by notification in the Gazette, specify.

2. Sub-clause (1) of clause 4 seeks to empower the Government to appoint, by notification in the Gazette, such officers not below the rank of District Labour Officer as authorities for hearing and deciding complaints and claims and to define the local limits within which each such authority shall exercise its jurisdiction. Sub-clause (2) of the caluse seeks to provide

that complaints and claims shall be made in such manner as may be prescribed. Sub-clause (6) of clause 4 seeks to empower the Government to appoint by notification in the Gazette appellate authorities to hear and decide appeals against the orders of the authorities referred to in sub-clause (1).

3. Clause 5 seeks to provide that the employers shall maintain such registers and documents as may be prescribed.

4. Clause 6 seeks to empower the Government to appoint Inspectors and to define the area of jurisdiction of each Inspector, by notification in the Gazette.

5. Sub-clause (2) of clause 9 seeks to provide that no court shall take cognisance of any offence punishable under the Act except upon a complaint made with the sanction of the Government or an officer authorised by them in this behalf.

6. Clause 10 seeks to empower the Government to make rules for carrying out the provisions of the proposed legislation.

7. The above matters are matters of administrative or routine nature or matters of procedure. Further, the rules after they are make have to be laid before the Legislative Assembly. The delegation of legislative power is therefore, of a normal character.

OOMMEN CHANDY

Government of Kerala
1977

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 12841-Leg. (A) 2/77/Law. *Dated, Trivandrum, 6th August 1977/ 15th Sravana, 1899.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 6th day of August, 1977.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

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33/2823/MC.

ACT 13 OF 1977

THE KERALA APPROPRIATION (No. 3) ACT, 1977

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Kerala for the services of the financial year 1977-78.

Preamble.—WHEREAS it is necessary to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Kerala for the services of the financial year 1977-78;

BE it enacted in the Twenty-eighth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Appropriation (No. 3) Act, 1977.

2. *Issue of Rs. 19,43,76,100 from and out of the Consolidated Fund of the State of Kerala for the financial year 1977-78.*—From and out of the Consolidated Fund of the State of Kerala, there may be paid and applied sums not exceeding those specified in column (3) of the Schedule amounting in the aggregate to the sum of nineteen crores, forty-three lakhs, seventy-six thousand and one hundred rupees towards defraying the several charges which will come in course of payment during the financial year 1977-78, in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*—The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Kerala by this Act shall be appropriated for the services and purposes specified in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

(1)	(2)		(3)		
			Sums not exceeding		
mand No.	*Services and purposes*		*Voted by the Legislative Assembly* Rs.	*Charged on the Consolidated Fund* Rs.	*Total* Rs.
II	Heads of States, Ministers and Headquarters staff	Revenue	6,00,000	..	6,00,000
V	Agricultural Income-tax and Sales-tax	Revenue	5,00,000	..	5,00,000
VI	Land Revenue	Revenue	2,13,000	..	2,13,000
VIII	Excise	Revenue	10,00,000	..	10,00,000
XII	Police	Revenue	10,30,100	..	10,30,100
XIII	Jails	Revenue	4,32,400	..	4,32,400
XIV	Stationery and Printing and other Administrative Services.	Revenue	1,40,000	..	1,40,000
XV	Public Works	Revenue	100	..	100
		Capital	2,10,00,100	37,000	2,10,37,100
XVI	Pensions and Miscellaneous	Revenue	24,88,900	..	24,88,900
XVII	Education, Art and Culture	Revenue	78,13,500	..	78,13,500
		Capital	6,01,600	..	6,01,600
XVIII	Medical	Revenue	45,00,000	..	45,00,000
XX	Public Health	Revenue	10,00,000	..	10,00,000

XXII	Housing	Revenue	60,00,000	..	60,00,000
		Capital	10,00,000	..	10,00,000
XXV	Labour and Employment	Revenue	16,75,000	..	16,75,000
		Capital	2,00,000	..	2,00,000
XXVI	Social Welfare including Harijan Welfare	Revenue	11,17,100	..	11,17,100
		Capital	100	..	100
XXVII	Famine	Revenue	1,80,00,000	..	1,80,00,000
XXVIII	Co-operation	Revenue	15,52,800	..	15,52,800
		Capital	1,13,93,600	..	1,13,93,600
XXIX	Miscellaneous Economic Services	Revenue	2,02,00,000	..	2,02,00,000
XXX	Agriculture	Revenue	70,00,600	..	70,00,600
		Capital	20,00,000	..	20,00,000
XXXIV	Fisheries	Revenue	35,00,000	..	35,00,000
		Capital	30,00,000	..	30,00,000
XXXV	Forest	Revenue	9,00,000	..	9,00,000
		Capital	16,00,000	..	16,00,000
XXXVI	Community Development	Revenue	40,52,200	..	40,52,200
XXXVII	Industries	Revenue	1,01,37,500	3,500	1,01,41,000
		Capital	67,42,400	..	67,42,400
XXXVIII	Irrigation	Revenue	100	..	100
		Capital	3,50,00,400	4,44,100	3,54,44,500
XXXIX	Power	Capital	95,00,000	..	95,00,000
XLI	Transport	Capital	50,00,000	..	50,00,000
XLV	Miscellaneous Loans and Advances	Capital	30,00,000	..	30,00,000
		Total	19,38,91,500	4,84,600	19,43,76,100

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GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G. O. Rt. 1715/77/Home. *Dated, Trivandrum, 6th August, 1977.*

S. R. O. No. 711/77.—In exercise of the powers conferred by section 21 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Kerala hereby appoint the Deputy Collector for Land Acquisition, Kerala State Electricity Board, Kozhikode as Special Executive Magistrate for the areas comprised in Cannanore, Kozhikode, Malappuram and Palghat Districts for a period of one year from the date of publication of this notification in the Gazette and confer on him all the powers as are conferrable on Executive Magistrates under the said Code.

By order of the Governor,

G. SUKUMARAN NAIR,

Additional Secretary to Government.

Explanatory Note

(This does not form part of the Notification but is intended to give its general purport).

It is necessary to appoint the Deputy Collector for Land Acquisition, Kerala State Electricity Board, Kozhikode as Special Executive Magistrate. The notification is intended to achieve the above purpose.

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